

04-21-05

#5

DATE 04-15-05

PTO/SB/65 (01-05)  
Approved for use through 5/31/2006. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

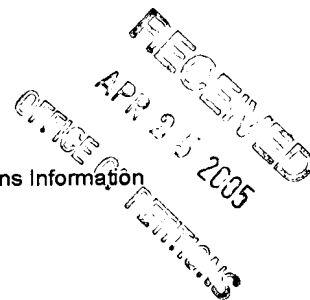
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.



Patent No. 6049910 Application Number 09294528  
Issue Date 04/18/00 Filing Date 04/19/99

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

**Also complete the following information, if applicable**

The above-identified patent:

- ☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_ ;  
original application number \_\_\_\_\_ ,  
original filing date \_\_\_\_\_ .
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international  
application \_\_\_\_\_ filed on \_\_\_\_\_ .

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is  
(1) being deposited with the United States Postal Service on the date shown below with sufficient  
postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450 OR  
(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark  
Office at (703) 872-9306.

4-19-05

Date

Al. int

Signature

Andre' McCarter

Typed or printed name of person signing Certificate

04/22/2005 9:46:51 00000001 6049910

01 FC:1599

1135.00 OP

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 1/2 yr fee	(1551)	<input checked="" type="checkbox"/> \$ <u>455.<sup>00</sup></u>	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$ _____	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 455.<sup>00</sup>

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.<sup>00</sup> (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 700.<sup>00</sup>

## 5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ 1,100.<sup>00</sup> + \$5.00 cash = \$1,155.<sup>00</sup>☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_. A duplicate copy of this authorization is attached.☐ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_. A duplicate copy of this authorization is attached.

## 7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. \_\_\_\_\_

OR

☐ Send refund check.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Al McInt  
Signature(s) of Petitioner(s)

4-19-05  
Date

Andre' McCarter  
Typed or printed name(s)

Registration Number, if applicable

18333 Hattieras Street # 43  
Tarzana CA 91356  
Address

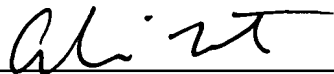
(818) 705-0365  
Telephone Number

## ENCLOSURES:

- ☒ Maintenance Fee payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☒ Other: —

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

4-19-05

Date

Andre' McCarter

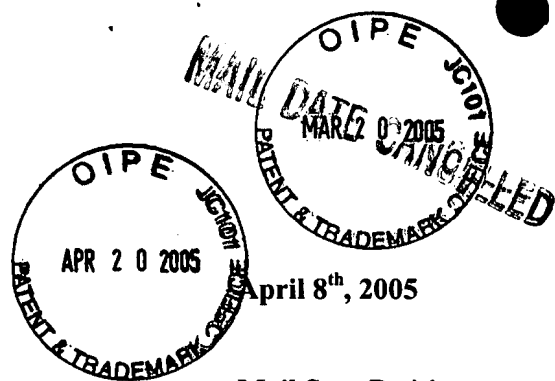
Typed or printed name

Registration Number, if applicable

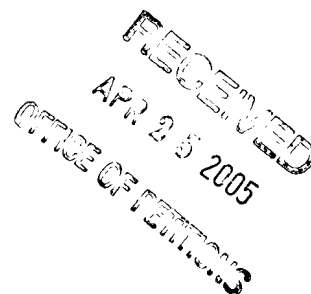
STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

(Please attach additional sheets if additional space is needed)



April 8<sup>th</sup>, 2005



Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: Andre McCarter / Patent # 6049910 /Unavoidable Delay In Payment of Maintenance Fee

Dear Sirs & Madams, (Petition Help Desk),

My name is Andre McCarter. I am writing the Commissioner of Patents to petition for reinstatement of my patent in accordance with 37 CFR 1.378. I have enclosed a cashier's check for the maintenance fee, (\$450), and the surcharge, (\$7 00) set forth in 37 CFR 1.20(m), unavoidable.

The delay in paying in paying my maintenance fee in a timely manner in accordance with 37 CFR 1.362(e) was unavoidable. Due to the restrictions of my chapter 13 bankruptcy case # SV03-16177 GM, which was filed and processed prior to and after the patent maintenance fee expiration due date of 04-19-04.

Due to unforeseen set-backs in my company business which adversely impacted my personal finances I was forced to file for Chapter 13 to re-organize under the bankruptcy protection procedure.

Under the Chapter 13 legal structure and financial requirements I was obligated to disclose all income revenue to the Chapter 13 Trustee so that the revenues could be applied to my mortgage loans and other creditors the bankruptcy court determined. I have enclosed some documentation to verify this information. The case has just recently been decided and confirmed. I am free to make payments outside of my Chapter 13 status.

Henceforth I will make all maintenance fee payments in a timely manner. We hope the required enclosed payments, this letter and attached documents will satisfy the Director /Commissioner to accept re-instatement of my patent.

Thank you for your time and consideration in this matter.

Very truly yours,

Andre' McCarter

FORM B10

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA

Name of Debtor  
ANDREW CARTER

Case Number  
03-13185-GM

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (The person or entity to whom the debtor owes money or property):  
Department of the Treasury - Internal Revenue Service

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement of particulars.

Name and addresses where notices should be sent:  
Internal Revenue Service  
300 N. Los Angeles St.  
Stop 5117  
Los Angeles, CA 90012

☐ Check box if you have never received any notices from the bankruptcy court in this case.  
☐ Check box if the address differs from the address on the envelope sent to you by the court.

Telephone number: (213) 576-4514 Creditor #4

Account or other number by which creditor identifies debtor:  
see attachment

Check here ☐ replaces if this claim ☐ amends a previously filed claim, dated: \_\_\_\_\_

1. Basis for Claim

- ☐ Goods sold  
☐ Services performed  
☐ Money loaned  
☐ Personal injury/wrongful death  
☒ Taxes  
☐ Other \_\_\_\_\_

- ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)  
☐ Wages, salaries, and compensation (fill out below)

Your SS #: \_\_\_\_\_  
Unpaid compensation for services performed from \_\_\_\_\_ to \_\_\_\_\_ (date) (date)

2. Date debt was incurred: see attachment

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed: \$ 30,515.00

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

- ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

- ☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

- ☐ Real Estate ☐ Motor Vehicle  
☐ Other \_\_\_\_\_

Value of Collateral: \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ \_\_\_\_\_

6. Unsecured Priority Claim.

- ☒ Check this box if you have an unsecured priority claim

Amount entitled to priority \$ 30,515.00

Specify the priority of the claim:

- ☐ Wages, salaries, or commissions (up to \$4,650)\* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).  
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).  
☐ Up to \$2,100\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).  
☐ Alimony, maintenance, or support owed to spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).  
☒ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).  
☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_).

\*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Date

05/23/2003

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

N. KAKUSKE

Insolvency Manager

THIS SPACE IS FOR COURT USE ONLY

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number <b>ALLAN D. SARVER SBN 106282</b> Attorney at Law 16027 Ventura Blvd Suite 660 Encino, CA 91436 Telephone No. (818) 981-0581 Facsimile No. (818) 981-0026  <input type="checkbox"/> Individual appearing without counsel <input checked="" type="checkbox"/> Attorney for: DEBTOR	<b>FOR COURT USE ONLY</b>          
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</b>	CHAPTER: 13 CASE NO. <b>SV03-13185GM</b>
In re: <b>ANDRE McCARTER</b> SSN: <del>██████████</del>	<b>SECTION 341(a) MEETING OF CREDITORS:</b> DATE: 5/28/03 TIME: 9:00 a.m. HEARING ROOM: 105- 21051 Warner Center Lane, Woodland Hills, CA <b>CONFIRMATION HEARING:</b> DATE: 7/15/03 TIME: 1:30 p.m. CTRM: 303 FLOOR: 3rd Floor, 21041 Burbank Blvd. Woodland Hills, CA <b>DEADLINE FOR OBJECTIONS TO PLAN: 5/20/03.</b> (*8 days before the Section 341(a) meeting)

**NOTICE OF SECTION 341(a) MEETING AND  
HEARING ON CONFIRMATION OF CHAPTER 13 PLAN  
WITH COPY OF CHAPTER 13 PLAN**

1. NOTICE IS HEREBY GIVEN to all creditors and other interested parties that on the above date and time and in the indicated courtroom, debtor(s) will seek court approval of the attached Chapter 13 plan.
  
2. **Section 341(a) Meeting Location:**

<input type="checkbox"/> 725 South Figueroa Street, Lobby Level, Los Angeles <input checked="" type="checkbox"/> 21051 Warner Center Lane, Suite 115, Woodland Hills <input type="checkbox"/> 3420 Twelfth Street, Riverside	<input type="checkbox"/> 411 West Fourth Street, Room 1-154, Santa Ana <input type="checkbox"/> 128 East Carrillo Street, Santa Barbara
--	--
  
3. **Chapter 13 Plan Confirmation Hearing Location:**

<input type="checkbox"/> 255 East Temple Street, Los Angeles <input checked="" type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills <input type="checkbox"/> 3420 Twelfth Street, Riverside	<input type="checkbox"/> 411 West Fourth Street, Santa Ana <input type="checkbox"/> 1415 State Street, Santa Barbara
--	---
  
4. **OBJECTIONS TO PLAN:** If you wish to object to the confirmation of the Chapter 13 plan, you must file a written objection with the Bankruptcy Court and serve a copy of it upon the debtor(s), the attorney for the debtor(s), and the Chapter 13 trustee before the deadline set forth above. Unless you timely file a written objection to the plan and appear at the confirmation hearing, the Court may treat your failure to do so as a waiver of your right to object to the plan, and may approve the plan.
  
5. **APPEARANCE BY DEBTOR(S) AND THE ATTORNEY FOR THE DEBTOR(S) IS REQUIRED AT BOTH THE SECTION 341(a) MEETING AND THE CONFIRMATION HEARING.** If the Chapter 13 trustee finds at the Section 341(a) meeting that the case is ready for confirmation, the trustee may, but is not required to, stipulate that the debtors and counsel are excused from appearance at the confirmation hearing (if the assigned judge permits the trustee to waive appearances). If the Chapter 13 trustee finds at the Section 341(a) meeting that the case is NOT ready for confirmation, the trustee may, but is not required to, continue the Section 341(a) meeting and/or the confirmation hearing to a later date. **Unexcused failure by the debtor(s) to appear at either the Section 341(a) meeting or the confirmation hearing may result in dismissal of the case. The dismissal order may include a prohibition on filing any other bankruptcy case for a period of 180 days pursuant to 11 U.S.C. § 109(g).**

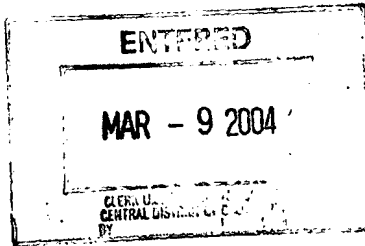
Dated: April 28, 2003

*Signature of Debtor(s) or Attorney for Debtor(s)*

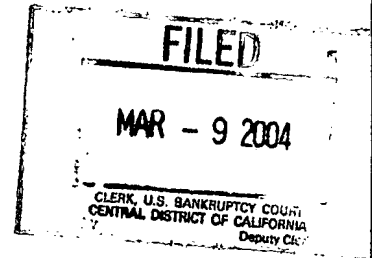
**LAW OFFICES OF ALLAN D. SARVER**  
 Print Law Firm Name (if applicable)

Debtor or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number

ALLAN D. SARVER SBN 106282  
ATTORNEY AT LAW  
16027 VENTURA BLVD, SUITE 660  
ENCINO, CA 91436  
TELEPHONE NO. (818) 981-0581  
FACSIMILE NO. (818) 981-0026



FOR COURT USE ONLY



☒ Attorney for DEBTOR

☐ Pro Se Debtor

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA

CHAPTER 13

CASE NUMBER SV03-16177GM

In re ANDRE McCARTER

MOTION UNDER LOCAL  
BANKRUPTCY RULES 3015-1(n)  
AND 9013-1(g) TO MODIFY PLAN  
OR SUSPEND PLAN PAYMENTS;  
TRUSTEE'S COMMENTS; ORDER  
THEREON

Debtor(s).

(No Hearing Required)

The above-named debtor(s) respectfully represents:

1. The chapter 13 plan filed by the debtor(s) was confirmed on 1/13/04. Pursuant to the confirmed plan, debtor(s) was to pay the sum of \$ See Attachment I per month to the trustee for a period of 36 months, which would pay 0 % to Class 5 general unsecured creditors.
2. Since the Order Confirming Plan was entered, the debtor's circumstances have changed in the following respect:  
Said Plan at Section II incorrectly stated -0- versus 19.46 % of each plan payment re. administrative fees, to-wit: attorneys fees  
in the sum of \$2000.00, which were approved subject to the Rights and Responsibilities Agreement between Debtor and his  
Counsel. See Declaration of Allan D. Sarver attached hereto.
3. There have been 0 previous modification or suspension orders, pursuant to which payments have been suspended for 0 months and/or the plan has been extended for 36 months.
4. If this motion is approved, the last payment due under the plan would be payable 36 months after the first plan payment was due.
5. Therefore, debtor(s) requests that the court modify or suspend the plan payments from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ for the period of \_\_\_\_\_ to \_\_\_\_\_ and  
☐ extend the plan for a period of \_\_\_\_\_ months,  
OR  
☐ increase the plan payments from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ for a period of \_\_\_\_\_ months commencing \_\_\_\_\_.
6. If this motion is granted  
☒ There will be no change in the percentage paid to Class 5 general unsecured creditors,  
OR  
☐ The percentage paid to Class 5 general unsecured creditors will change from \_\_\_\_\_ % to \_\_\_\_\_ %.

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.



COPY

Elizabeth F. Rojas  
Chapter 13 Standing Trustee  
15301 Ventura Blvd., Bldg B, Ste 400  
Sherman Oaks, California 91403  
Telephone: (818) 933-5700  
Facsimile: (818) 933-5755

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SAN FERNANDO VALLEY DIVISION

In re: ) Case No. SV03-16177-GM  
)  
ANDRE MCCARTER ) CHAPTER 13  
)  
) WITHDRAWAL OF TRUSTEE'S  
) MOTION TO DISMISS  
) CHAPTER 13 CASE  
)  
)  
Debtor(s) )  
)

To The Honorable Geraldine Mund, United States Bankruptcy  
Judge, Debtor(s), Counsel for Debtor(s), if any, and all  
interested parties:

The Motion by the Chapter 13 Trustee for dismissal of the  
above captioned Chapter 13 case, served on the debtor(s) and  
counsel for debtor(s), if any, on July 8, 2004, is hereby  
withdrawn.

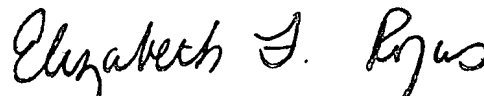
A hearing on debtor's opposition to the motion to dismiss was  
scheduled for March 22, 2005, at 2:30 PM.

Executed at Sherman Oaks California on MAR 25 2005.

*Elizabeth F. Rojas*  
Elizabeth F. Rojas, Trustee

1 I declare that I am the duly appointed, qualified and acting  
2 Chapter 13 Trustee in this case. I declare under penalty of  
3 perjury that the foregoing is true and correct to the best of  
4 my knowledge, information and belief.

5 Executed at Sherman Oaks California on MAR 25 2005.

6 

7 Elizabeth F. Rojas, Trustee

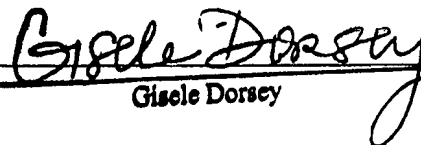
8 I declare under penalty of perjury that I am employed by  
9 Elizabeth F. Rojas, Trustee, that I am a citizen of the U.S., that  
10 I am over 18 years of age, that I am not a party to the above  
11 action and that on MAR 25 2005, I mailed copies of this  
12 document to:

13 ANDRE MCCARTER  
14 18333 HATTERAS ST, #43  
15 TARZANA, CA 91356

16 ALLAN D. SARVER  
17 16027 VENTURA BLVD #660

18 ENCINO, CA 91436

19 Executed at Sherman Oaks California, on MAR 25 2005.

20   
21 Gisele Dorsey